



ZONING BOARD OF APPEALS
 City Hall, Room 303
 133 William Street,
 New Bedford, MA 02740
 (508)979-1488
 www.newbedford-ma.gov

CITY OF NEW BEDFORD
 JONATHAN F. MITCHELL, MAYOR

NOTICE OF DECISION

Case Number: #4169		CITY CLERK'S OFFICE NEW BEDFORD, MA 2015 MAR 10 AM 10:21 CITY CLERK		
Request Type: Variance				
Address: WS South Second Street				
Zoning: Residence C				
Recorded Owner: Madeira Construction, INC.				
Applicant: Madeira Construction, INC c/o Carlos Madeira				
Applicant Address: 45 Tania Drive East Taunton, MA				
Application Submittal Date		Public Hearing Date		Decision Date
January 16 th , 2015		February 26 th , 2015		February 26 th , 2015
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
25	85	9506	311	

Application:

Variance under provisions of Chapter 9, Comprehensive Zoning Sections 2700 (Dimensional Regulation), and 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B-Lot Size, Front Yard, Rear Yard), 2750 (Yards in Residential District), 2751 (Front Yard) and 2753 (Rear Yard); relative to property located at WS South Second Street, Assessor's Map Plot 25 Lot 85 in a Residential-C Zoned District. To allow the petitioner to erect a 24'x48' single family with a 2' overhang and a one car garage under as plans filed.

Action: GRANTED, WITH CONDITIONS, for the reasons set forth in the attached Decision with the Conditions as described in the attached Decision.
 (See Attachment)

A copy of this Decision was filed with the City Clerk of the City of New Bedford on March 10th, 2015. Any person aggrieved by this decision has twenty (20) days to appeal the decision in accordance with the procedures set forth in Section 17 of Chapter 40A of the General Laws of Massachusetts.

March 10, 2015
 Date

Allen D. Decker
 Clerk, Zoning Board of Appeals

1.) APPLICATION SUMMARY

The petitioner is proposing to erect a 24'x48' single family with a 2' overhang and a one car garage under as plans filed, which will require a Variance under Chapter 9, Comprehensive Zoning Sections 2700 (Dimensional Regulation), and 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B-Lot Size, Front Yard, Rear Yard), 2750 (Yards in Residential District), 2751 (Front Yard) and 2753 (Rear Yard); relative to property located at WS South Second Street, Assessor's Map Plot 25 Lot 85 in a Residential-C Zoned District.

2.) MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Site Plan entitled "Building Permit Plan-Carlos Madeira Assessors Map 25, Lots 85 & 167. 531 S. Second Street New Bedford, MA" drawn by Kenneth R. Ferreira Engineering, dated 10/24/14; date stamped received by City Clerk's Office January 16th, 2014.

Other Documents & Supporting Material

- Completed Petition for a Variance Form, Stamped Received by City Clerk's Office January 16th, 2015.
- Elevation Plans Set, dated May 13th, 1992; date stamped received by City Clerk's Office January 16th, 2015.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, dated January 26th, 2015.
- Letter to ZBA from City Planner Jill Maclean, dated February 25th, 2015.

3.) DISCUSSION

Board Members I. Comerford, J. Mathes, A. Decker, and L. Schick were present on the evening of the public hearing.

City of New Bedford Staff Danny D. Romanowicz (Commissioner of Buildings & Inspectional Services), and Jennifer Gonet (Assistant Project Manager) were present during proceedings for the subject case review.

A. Decker read and motioned to receive and place on file the communications from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated January 26th, 2015; to have the appeal be received and placed on file; to have the plan be received and placed on file; that the owners of the lots as indicated are the ones deemed by the Board to be affected; and that the Communication from the Office of City Planner dated February 25th, 2015 be received and placed on file. Motion seconded by J. Mathes. With all in favor, the motion carried. Chairperson Comerford then declared the hearing open for Case #4169.

The Representative of the Petitioner: Mr. Armando Pereira (P.O. Box 578 West Wareham, MA 02576) described the reasoning for the requested relief. Mr. Pereira acknowledged Mr. Carlos Madeira (45 Tania Drive East Taunton, MA) was also in attendance. Mr. Pereira explained the lot has been vacant for some years after the previous residence was destroyed in a fire. He explained the proposal is for a raised ranch style single family home with driveway access proposed from Delano Street. Mr. Pereira noted the garage will be flipped to the Delano Street side. Mr. Pereira described due to the corner lot driveway access is proposed from Delano Street side of the property.

Chairperson Comerford requested that Case # 4170 Special Permit for WS South Second Street be opened at this time, as it concerned the same project. A. Decker read and motioned to receive and place on file the communications from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated January 26th, 2015; to have the appeal be received and placed on file; to have the plan be received and placed on file; that the owners of the lots as indicated are the ones deemed by the Board to be affected; and that the Communication from the Office of City Planner dated February 25th, 2015 be received and placed on file. Motion seconded by J. Mathes. With all in favor, the motion carried. Chairperson Comerford then declared the hearing open for Case #4170.

Mr. Pereira stated the lot complies with what was there previously. He stated the project proposes 21 feet in the back and 7 feet in the front. He admitted it is tight but is in line with other properties on the street and in the area. He stated putting back what was previously at this property wouldn't fit. Mr. Pereira said he believed a single family home at this property would be ideal. Mr. Pereira stated if you designed something to fit the requirements on this lot, it would result in a long skinny building no one could use.

Chairperson Comerford asked how long the lot has been vacant for and if Mr. Madeira had purchased the lot as vacant. Mr. Madeira explained he bought the lot after the previous two three family home had burnt down and the land was vacant. He explained originally he wanted to build a three unit tenement but it would not fit after looking at the neighborhood. Therefore, he is proposing to build an affordable single family home.

A. Decker requested the applicant confirm the location of the driveway access will be from Delano Street as shown on the site plan drawn by Kenneth Ferreira Engineering. Mr. Madeira confirmed the driveway access will be as shown on the plan submitted drawn by Kenneth Ferreira Engineering.

Following the petitioner's testimony, Chairperson I. Comerford invited to the podium anyone wishing to speak in favor of the application. Ward 6 City Councilor Joseph Lopes (75 Dudley Street New Bedford, MA) spoke in favor of the petition. Councilor Lopes commented positively on the reuse of a vacant lot and commended the applicant on well done development projects at other properties in the city. At Large City Councilor Linda Morad (4162 Acushnet Avenue New Bedford, MA) spoke in favor. Councilor Morad spoke positively of the applicant as a property and business owner in New Bedford. Councilor

Morad also stated the project would provide good affordable housing in the city. No one else in attendance spoke in support of the petition or wished to be recorded in favor of the petition.

Chairperson I. Comerford invited to the podium anyone wishing to speak in opposition of the petition. No one in attendance spoke in opposition of the petition or wished to be recorded in opposition of the petition.

With no further stated questions or concerns, Chairperson I. Comerford declared the hearing closed.

The Board members discussed the case. Chairperson Comerford stated he believed the project to be a good use in the lot. He also believed a single family was a good use in the neighborhood and the city.

4.) FINDINGS

Criteria for Approval of Dimensional Variation (Ch. 9, Sect. 2730)

The Board of Appeals may vary otherwise applicable dimensional requirements pertaining to frontage, lot area, building height and sidelines upon finding the following:

- a.) *That owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant;*

The Board found that a literal enforcement of the dimensional requirements of the zoning district would constitute a hardship for the applicant.

- b.) *That desirable relief may be granted without substantial detriment to the public good;*

The Board found that sufficient information and testimony had been given to determine that granting the required relief would not result in substantial negative impact to the public good. The Board found the single family home to be a good use for the neighborhood and city.

- c.) *And, that desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.*

The Board found that the impact of the dimensional relief would be minimal, and would not substantially derogate from the intent of the zoning ordinance.

5.) RELIEF

With respect to the relief requested by the Applicant, the Board has been presented with sufficient information at the hearing to justify the relief described below, subject to the conditions set forth below in Section 6.

The Board grants the Applicant's request for relief from Chapter 9, Comprehensive Zoning Sections 2700 (Dimensional Regulation), and 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B-Lot Size, Front Yard, Rear Yard), 2750 (Yards in Residential District), 2751 (Front Yard) and 2753 (Rear Yard); relative to property located at WS South Second Street, Assessor's Map Plot 25 Lot 85 in a Residential-C Zoned District. To allow the petitioner to erect a 24'x48' single family with a 2' overhang and a one car garage under as plans filed.

6.) THE FOLLOWING CONDITIONS AND RESTRICTIONS SHALL APPLY

- a. The project shall be set forth according to plans submitted with the application;
- b. That the applicant shall ensure that a copy of this decision, bearing the certification of the City of New Bedford Clerk's Office, is recorded in the Registry of Deeds;
- c. And that the rights authorized by the granted Variances must be exercised, by issuance of a Building Permit by the Department of Inspectional Services and acted upon within one year from the date they were granted or they will lapse.

7.) DECISION

Based on a review of the application documents, testimony given at the public hearing and the findings described above, the Zoning Board of Appeals hereby GRANTS, WITH CONDITIONS, the requested Variance.

On a motion by J. Mathes seconded A. Decker by to grant the requested Variance, the vote carried 4-0 with members J. Mathes, L. Schick, A. Decker, and I. Comerford voting in the affirmative, no member voting in the negative. (Tally 4-0)

Filed with the City Clerk on:

March 18, 2015

Date

Allen Decker

Allen Decker, Clerk of the Zoning Board of Appeals